

State of Ohio,)
)
County of Lorain.) SS:

IN THE COMMON PLEAS COURT

Harry Williamson,)
)
Plaintiff,)
)
vs.) Case No. 22CV205156
)
Lorain County, et al.,)
)
Defendants.)

* * *

A COMPLETE TRANSCRIPT OF PROCEEDINGS HAD IN THE
ABOVE-ENTITLED MATTER ON WEDNESDAY, FEBRUARY 8, 2023,
BEFORE THE HONORABLE THOMAS J. POKORNY, VISITING JUDGE
OF SAID COURT.

APPEARANCES:

Appearing on behalf of the Plaintiff:
By Brian D. Bardwell, Esq.

Appearing on behalf of Defendant Lorain County, David
Moore, Matt Lundy, Tom Williams, James Cordes:
By Brian C. Lee, Esq.

Appearing on behalf of Defendants Ulmer & Berne LLP
and Amanda Martinsek:
By Monica A. Sansalone, Esq.

Also present:

Amanda Martinsek

Kenneth Zirm

EXHIBIT
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1. **PROCEEDINGS - FEBRUARY 8, 2023**

2. THE COURT: This is Williamson versus Lorain
3. County, et al. For reference, it's Case 22CV205156.
4. The matter is set today for hearing on pending motions
5. involving discovery disputes amongst the parties.

6. Okay. So the plaintiff can begin with motions
7. that you have filed that are pending.

8. MR. BARDWELL: Thank you, Your Honor. So
9. currently we have two motions pending. One of them --
10. yeah, the first one to address is the motion to compel
11. directed at the Ulmer defendants requesting a privilege
12. log. That -- the last time we talked, we had a pledge
13. from the Ulmer defendants to supplement the privilege
14. log with a couple of communications that we knew were
15. outstanding, based on the privilege log that the County
16. defendants had produced.

17. We received that supplement, which added, I
18. think, two, with the new e-mails, that are, as I
19. understand it, just essentially thank you communications
20. back and forth between the client and the firm. But
21. when we review the supplemented production from Ulmer
22. and compare it to the County's production, we can still
23. see that there are several communications that the Ulmer
24. defendants are not disclosing or listing on there or
25. providing us with, you know, an opportunity to review so

1 that we can challenge --

2 THE COURT: Are you satisfied, otherwise, with
3 what they have produced as far as the privilege log is
4 concerned?

5 MR. BARDWELL: There is -- I mean, the structure
6 and format of the privilege log is satisfactory, if
7 that's what you're asking. It appears that there are
8 several entries from the privilege log that have not
9 been made yet and --

10 THE COURT: Entries that you say are missing?

11 MR. BARDWELL: Correct.

12 THE COURT: And how do you know that? How do
13 you know that?

14 MR. BARDWELL: Because the County has produced a
15 privilege log seeking the same communications, and they
16 are listed on the County's log, but not on the Ulmer
17 log.

18 THE COURT: Okay. So is there anything that you
19 have not gotten? You've received them, although the
20 Ulmer defendants, you say, have deleted a couple, right?

21 MR. BARDWELL: I don't mean to say that they've
22 deleted or intentionally taken anything out. But we
23 know that they are not -- that the -- yeah, we know that
24 the log is --

25 THE COURT: Failed to include. I didn't mean

1 anything further either.

2 MR. BARDWELL: Yes. So what we know -- I guess
3 what I'm trying to say is what we don't know is whether
4 at this point between what we know from the County log
5 and what we know from the Ulmer log, we have a full
6 accounting of all the privileged communications, and
7 that's what we're still seeking an order on this.

8 THE COURT: Okay. But what has been filed
9 between the two of those defendants --

10 MR. BARDWELL: Yes.

11 THE COURT: -- there have -- now, what have you
12 received? What explanations have you received? Have
13 they been singled out and there have been positions
14 taken with regard to the privileged nature of these
15 individually?

16 MR. BARDWELL: Yes, there have.

17 THE COURT: So what's left for me to decide?

18 MR. BARDWELL: Whether the Ulmer defendants need
19 to produce a privileged log that lists all of the
20 privileged communications responsive to our request.

21 THE COURT: But you even say that you did get
22 them ultimately but from a different party?

23 MR. BARDWELL: Well, we know that there are
24 additional ones. We know that from another party, but
25 what we don't know is whether, between the two of them,

1 we actually have everything at this point.

2 THE COURT: All right. Can I hear from them
3 now?

4 MR. BARDWELL: Go ahead.

5 THE COURT: Okay. Let's do it this way. So how
6 about this? It seems like we don't have too much of a
7 dispute left here.

8 MS. SANSALONE: I would argue, Your Honor -- I'm
9 Monica Sansalone, first of all, on behalf of the Ulmer
10 defendants. I'd like to introduce Ken Zirm, who is the
11 general counsel of Ulmer & Berne here, and Ms.
12 Martinsek, who is a named defendant, who is with me as
13 well today.

14 There was actually never a dispute. It would be
15 my argument, if you read my brief in opposition, Your
16 Honor, on behalf of the Ulmer defendants, that this
17 motion to compel was a preemptive move on behalf of --

18 THE COURT: No, no, no. I don't want to hear
19 about that, please.

20 MS. SANSALONE: All right.

21 THE COURT: Counsel, I really don't.

22 MS. SANSALONE: Okay.

23 THE COURT: I want to know if I need to make any
24 decision here about what you have produced or failed to
25 produce. What's your position on that?

1 MS. SANSALONE: So we have supplemented, as
2 Mr. Bardwell said the -- there was a discrepancy about
3 literally two thank you e-mails. That was supplemented
4 to the privileged log. The only dispute, for lack of a
5 better term, in which the County put additional
6 communications on, that we did not, relate to an
7 individual that has nothing to do with this lawsuit, a
8 Mr. Cuerney. So --

9 THE COURT: All right. So your position is that
10 you've included everything that you need to?

11 MS. SANSALONE: Correct.

12 THE COURT: All right. And then how about the
13 County? Do they want to address this as well?

14 MR. LEE: Yes. Thank you, Your Honor. It's
15 Brian Lee on behalf of Lorain County defendants. As far
16 as any discrepancies, we went back and we looked at
17 anything that was on the Ulmer privilege that was not on
18 the Lorain County and there was nothing that could be
19 found that showed what those communications were, and
20 maybe it was perhaps mistitled. I don't know. Either
21 way, there's nothing left to produce. Everything that's
22 been shown on the privilege log is shown as a complete
23 privilege log for Lorain County.

24 THE COURT: I'll hear from the plaintiff now in
25 rebuttal, and then we'll move on to the next one.

1 MR. BARDWELL: Sure. So --

2 THE COURT: If you wish. If you don't wish to
3 address --

4 MR. BARDWELL: Yes. No, I do. I have a list
5 here, at least a partial list of the items that were not
6 disclosed on the Ulmer log.

7 So one of them is an August 1st, 2021 message
8 between an Ulmer Partner William Edwards and Defendant
9 Martinsek. That one appears on the County log but not
10 on the Ulmer log. There is a message from Defendant
11 Martinsek to Defendant Lundy on August 3rd about how to
12 time the release of a statement that was, as we
13 understand it, a statement regarding my client's
14 termination. That message is also omitted from the
15 Ulmer log.

16 THE COURT: But you have that information from
17 the County?

18 MR. BARDWELL: We have that -- we do have that
19 information from the County.

20 THE COURT: So how could I cure -- how do you
21 want me to cure this situation? I don't -- I'm not
22 following you.

23 MR. BARDWELL: All that we're asking for is an
24 order compelling the Ulmer defendants to produce a
25 complete privilege log. What we want is something that

1 is on the record that we have that issue closed off so
2 that we know we have a full production and anything that
3 is missing is not the result of any objections or
4 oversights or anything like that.

5 THE COURT: Good. Move on to the next one,
6 please.

7 MR. BARDWELL: Okay. The -- oh, yes. So the
8 other motion is the motion with respect to the county
9 defendants. That was a motion to compel the production
10 of several documents, quite a few categories of
11 documents, in fact. When we first got our opposition to
12 that motion, the County produced several records, but
13 the vast majority of what we're looking for remains
14 outstanding. We're looking, for instance, for logs of
15 phone calls on county landlines to and among the parties
16 and also several other employees who are connected to
17 the case. We haven't received any of those phone
18 records. Those are records that, as we understand it,
19 are kept and maintained by the County itself. But we
20 haven't received them and we haven't received, I think,
21 any explanation for why they're still outstanding. My
22 understanding is we had an agreement to produce them
23 eventually. There is a different understanding with
24 respect to some of the, like, personal and cell phone
25 records.

1 So we are still waiting on quite a few records
2 in terms of the request for production, and so I've
3 outlined some of that in a pretrial brief I filed
4 shortly before we came in. We also have a motion for
5 sanctions on the interrogatories that we served.

6 THE COURT: Wait. Your motion to compel --

7 MR. BARDWELL: Yes.

8 THE COURT: -- on production of documents as far
9 as the County is concerned, you want phone call logs
10 from their landlines. Is that it?

11 MR. BARDWELL: We do want that. There are many
12 categories that are still outstanding. We have -- yes,
13 there's quite a bit that's still outstanding.

14 THE COURT: And you want the Court to go over
15 each one of those in order to determine what you're owed
16 if they exist?

17 MR. BARDWELL: We have -- so I've given a brief
18 summary in the brief that I filed today. If you want a
19 full accounting of everything, I can follow up with that
20 either probably today or tomorrow.

21 THE COURT: I want to hear from the County about
22 this part of it, please. Thank you.

23 MR. LEE: Your Honor, there is a complete
24 production and has been represented through
25 supplementation, through correspondence to counsel

1 saying whether documents do not exist or if they have,
2 they do exist, they have been produced. There's been
3 almost 38,000 pages of documents that Lorain County has
4 produced pursuant to these requests. That includes, as
5 of even this morning, some additional Everstream
6 records, which were requested. As far as whatever is
7 remaining, I have not seen this brief. So I don't know
8 what he's alleging. But as far as the County is
9 concerned, it's very clear in the correspondence of
10 communications that every single response or request for
11 production of documents and interrogatory has been
12 responded to either with the documents, the links to the
13 documents or that they just do not exist.

14 THE COURT: And if the document does not exist,
15 you have said so?

16 MR. LEE: Correct.

17 THE COURT: You have maintained that in your
18 responses?

19 MR. LEE: Correct. And the interrogatories. So
20 there's nothing outstanding that's left on the order to
21 compel and including the sanctions from Lorain County.

22 THE COURT: The interrogatories have also been
23 answered and are complete?

24 MR. LEE: Correct.

25 THE COURT: Good. Okay. I'll hear from the

1 plaintiff in rebuttal.

2 MR. BARDWELL: It sounds like there have been
3 some additional productions this morning, which I have
4 not seen yet, and so I'm not in a position to comment on
5 whether they are adequate or sufficient. The same with
6 the interrogatories. As of, I think, 6:00 a.m. this
7 morning, though, we were still waiting on verified
8 interrogatory responses from Defendant Cordes and
9 Defendant Williams.

10 THE COURT: Have those been sent?

11 MR. LEE: The one correction -- yes, those have
12 all been sent. The only thing that's outstanding is a
13 verification from Jim Cordes. He's the only one. I
14 understand he has health problems.

15 THE COURT: You just assigned verification that
16 what's true and accurate, that kind of thing?

17 MR. LEE: Yes. The interrogatories have already
18 been sent on behalf of Cordes in the beginning of
19 December.

20 THE COURT: Okay. Is that what you're talking
21 about?

22 MR. BARDWELL: We are talking about that, yes.
23 I'm sorry. We've -- I have not seen -- we've received
24 responses from them but not actual verification -- yes,
25 not verified responses, and that's what we've been

1 waiting on.

2 MR. LEE: All verifications have been provided
3 except for Mr. Cordes and that's who has health --

4 THE COURT: I missed it. "All verifications
5 have been" --

6 MR. LEE: Have been provided and produced with
7 the exception of Jim Cordes, and that's due to health
8 issues and --

9 THE COURT: Last name is C-O-R-T-E-Z?

10 MR. LEE: D-E-S.

11 THE COURT: Is that the only verification that
12 you're alleging is lacking here?

13 MR. BARDWELL: The Williams verification also,
14 but it sounds like that may have come up this morning.

15 MR. LEE: Yes, that was produced.

16 THE COURT: Pardon?

17 MR. LEE: That was produced.

18 THE COURT: Was?

19 MR. LEE: Yes.

20 MR. BARDWELL: This morning.

21 MR. LEE: Yes.

22 MR. BARDWELL: All right. And I will review and
23 make sure that we have that.

24 THE COURT: Okay. So the Cordes verification is
25 to be submitted then. We'll set a future date for that

1 one in my findings. What else?

2 MR. BARDWELL: So on the interrogatories, we
3 still have issues in terms of the substance on the ones
4 that have been verified. The County, for instance, has
5 objected and refused to answer any of the
6 interrogatories presented to it. This is a wrongful
7 termination and whistleblower retaliation case. The
8 County refuses to lay out the factual basis for my
9 client's termination.

10 THE COURT: Is this a separate motion you filed
11 or is this included in this motion that we're talking
12 about?

13 MR. BARDWELL: Right. Yes. We ask for the
14 Court to compel and issue sanctions on these
15 interrogatories.

16 THE COURT: Oh, this is for sanctions?

17 MR. BARDWELL: Yes. So we'd ask the Court to
18 enter an order essentially finding that the facts, you
19 know, embraced within these interrogatories are as
20 alleged in the complaint.

21 THE COURT: Because you say the County has
22 refused --

23 MR. BARDWELL: Correct.

24 THE COURT: -- to answer numerous
25 interrogatories?

1 MR. BARDWELL: Yes. It has not provided a
2 substantive answer to any of the interrogatories
3 presented to it.

4 THE COURT: This does not -- this only involves
5 the County defendants?

6 MR. BARDWELL: This -- there is nothing before
7 the Court on the interrogatories directed to the Ulmer
8 defendants.

9 THE COURT: I'll hear from the County, please.

10 MR. LEE: Your Honor, the responses have been
11 submitted. They are substantive. There may be
12 objections in there, which the County stands upon, based
13 on attorney-client privilege communications, which he's
14 seeking for. But they have been substantively responded
15 to even since back as early as December and
16 supplementation in January. So they have been responded
17 to. The objections, with respect to those questions,
18 including numerous questions, those deal with
19 attorney-client privileged communications, which the
20 County has not waived and will not waive.

21 THE COURT: And I'll hear from the plaintiff in
22 rebuttal.

23 MR. LEE: And, Your Honor, if I could add one
24 more thing.

25 THE COURT: Sorry. Go ahead.

1 MR. LEE: The motion to compel was filed. The
2 interrogatories and responses were submitted, and I've
3 heard nothing in respect to a deficiency or an argument
4 that there is not a substantive response until this
5 morning right now.

6 THE COURT: Is that correct?

7 MR. BARDWELL: I think -- yes, that is correct.
8 We've been waiting to get the verified responses. We
9 only got those on January 26th.

10 THE COURT: I'm not talking about those. We're
11 talking about the objections that the County made to
12 interrogatories based upon privilege.

13 MR. BARDWELL: Correct.

14 THE COURT: You've never indicated by anything
15 you filed or by letter to opposing counsel that you
16 object to that?

17 MR. BARDWELL: We --

18 THE COURT: And you're bringing it in front of
19 the Court now? Is that what they're telling me? Go
20 ahead.

21 MR. BARDWELL: I'm sorry. Yes, that is what
22 they're telling you and it is not inaccurate. We moved
23 for the -- yeah. We moved the Court to compel the
24 responses to the interrogatories. I've been waiting on
25 these verifications to know whether the responses that I

1 was getting were actually going to be the responses to
2 which the parties were going to swear, and that just
3 happened. That was January 26th. So either last week
4 or the week before.

5 So, no, I've not had a chance yet to go over the
6 responses in substance, but I wanted to raise this while
7 we were here. Some of these are -- I mean, some of
8 these are -- the privilege arguments in particular, I
9 mean, I think, seem -- the County has stated its
10 position pretty clearly, and it seems that it may be
11 worth reviewing here, but we can fight about them behind
12 the scenes and come back.

13 THE COURT: Counsel?

14 MR. BARDWELL: Yes.

15 THE COURT: You know how happy courts are to
16 deal with discovery disputes, aren't you?

17 MR. BARDWELL: Not particularly.

18 THE COURT: You've been around, right?

19 MR. BARDWELL: Yes.

20 THE COURT: Okay. Not real happy to have to
21 deal with them, let alone in situations where there does
22 not appear to even be a controversy here yet.

23 Is there a controversy in the manner in which
24 the interrogatories were objected to on the basis of
25 privilege?

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1 MR. BARDWELL: On that point, no, it has not
2 been.

3 THE COURT: Then I don't want to hear about it.

4 MR BARDWELL: Okay.

5 THE COURT: You guys have to work that out
6 yourselves.

7 MR. BARDWELL: Okay.

8 THE COURT: Okay. Then there are other matters
9 under your motion for sanctions. Any other matters you
10 want to raise at this time?

11 MR. BARDWELL: Not with respect to the motion
12 for sanctions, no.

13 THE COURT: Okay. What else have you got? Go
14 ahead.

15 MR. BARDWELL: So we also have -- and this is --
16 you may or may not be excited to hear about it.

17 THE COURT: I don't think any of you are here to
18 please me, so I wouldn't worry about that. So go right
19 ahead.

20 MR. BARDWELL: As you heard when we came in last
21 time, Defendant Williams has launched a piece of
22 satellite litigation naming my client and me and
23 Commissioner Hung as defendants in an abusive process
24 case.

25 THE COURT: Is that filed in this county?

1 MR. BARDWELL: That is filed in Cuyahoga County.
2 All right. So in that case, I sent out subpoenas for
3 phone records that we had discussed a need for in this
4 case. Those subpoenas have all been quashed by Judge
5 Burnside over there. I've been in touch with Monica and
6 with Brian about whether we're going to send those out
7 in this case. The Ulmer defendants are objecting to, I
8 think, any level of -- any amount of subpoena for the
9 phone records, for Defendant Martinsek's cell phone
10 records. We discussed raising it here. It sounds like
11 you may want us to just continue working it out behind
12 the scenes, and if that's the case, that's fine, but I
13 did want to raise it because I was --

14 THE COURT: Does that concern this litigation?
15 I mean, it may pour over into this litigation --

16 MR. BARDWELL: It does, Your Honor.

17 THE COURT: -- but it's all involving your
18 Cuyahoga case right now, is that it?

19 MS. SANSALONE: Your Honor, Judge Burnside has
20 quashed those subpoenas because they were grossly
21 overbroad and sought attorney-client privilege
22 information. She is also currently considering my
23 motion for sanctions against Mr. Bardwell for issuing
24 those subpoenas. I don't believe he's entitled to those
25 records whatsoever. We've objected to them in this

1 litigation and behind our backs he went without notice
2 to us and issued those subpoenas in the other
3 litigation. Judge Burnside, and I can give you her
4 orders, was not too pleased with Mr. Bardwell's conduct
5 in that regard and she's currently considering my
6 sanctions. I would ask that this court not permit him
7 to try to do what he did in that case, which she stopped
8 in this case.

9 THE COURT: But he hasn't done -- you haven't
10 done anything yet?

11 MR. BARDWELL: That's correct.

12 THE COURT: There's nothing justiciable in front
13 of me right now. So I don't want to invite any further
14 issues that I already have to deal with.

15 But what I am interested in, in the interests of
16 justice, is to ensure that one court realizes what
17 another court has done so that there is consistency,
18 okay? So, I'm asking all of you if there are issues
19 involving that in the future, that I be brought up to
20 date as far as what has happened in the other litigation
21 if it relates to something that is similar in this one.
22 We don't want Judge Burnside doing something different
23 than what I'm doing. I mean --

24 MS. SANSALONE: And to that regard, Your Honor,
25 I brought two copies of journal entries from Judge

1 Burnside's case that I think you would be interested in.
2 One about the motion to quash and then a different issue
3 in which Mr. Bardwell was declared disqualified from
4 representing Mr. Williamson in the companion case.

5 THE COURT: That he be what?

6 MS. SANSALONE: He was disqualified. Judge
7 Burnside issued an order disqualifying Mr. Bardwell from
8 representing Mr. Williamson, who is the plaintiff in
9 this case, in the other case. And currently I am
10 researching the question of whether Mr. Bardwell should
11 be disqualified as well in this case based on Judge
12 Burnside's findings. So I'm happy to provide you, Your
13 Honor with --

14 THE COURT: I'll take a look at it. Yes, make
15 sure they're timestamped as you file them, okay? Just
16 for timing.

17 MS. SANSALONE: You want me to file her journal
18 entries in this case?

19 THE COURT: In this case, yes, and then make
20 copies. I'll take a look at it, sure. That's not a
21 problem.

22 MS. SANSALONE: May I approach the bench?

23 THE COURT: You may.

24 MS. SANSALONE: I'm happy to give these to you.
25 They deal with both the motion to quash, the subpoena

1 for the cell records, and also Mr. Bardwell's
2 disqualification based on the rules of professional
3 conduct.

4 THE COURT: Okay. Other motions that you have?

5 MR. BARDWELL: That is it. It sounds like we
6 will just need to set up the subpoena issue and the
7 interrogatories more squarely and we can come back. I
8 have nothing else.

9 THE COURT: Okay. And then -- well, I guess I
10 will take Ulmer defendants first, your motions that you
11 have.

12 MS. SANSALONE: That would be wonderful, Your
13 Honor. Thank you. We have two motions pending. The
14 first is the motion to compel that we filed, which
15 centers around text messages. This morning at
16 4:42 a.m., I received a dump of documents that I have
17 been looking for, frankly, since August, Your Honor. We
18 initially propounded discovery in August and part of
19 that discovery we sought text messages between
20 Mr. Williamson and the extra-marital affair he was
21 having with Commissioner Hung. At first Mr. Bardwell
22 refused to produce any of these text messages claiming
23 that his client did not have the resources to get these
24 text messages imaged. He finally agreed to do so. We
25 have been getting trickles of text messages over the

1 last couple months. We have been discussing, and I have
2 sent him countless e-mails, which are detailed in my
3 affidavit in the motion to compel, for what we believe
4 are improper redactions in those text messages.

5 Low and behold this morning I received -- and I
6 can give you the comparison, Your Honor. These were the
7 amount of text messages I originally received from
8 Mr. Bardwell with pages and pages of redactions to them.
9 This morning at 4:42 a.m. -- this is actually what I
10 received and what I should have gotten in August and
11 September, and it wasn't until I finally had to take the
12 step and file a motion to compel that I got these.

13 As a result, Your Honor, I do think that the
14 Ulmer & Berne defendants are entitled to sanctions,
15 their attorneys' fees for these months of trying to get
16 basic discovery, very highly relevant text messages
17 which deal with the reason we are here, which is
18 Mr. Williamson's termination as a result of the
19 extra-marital affair that he was having with his
20 superior, Commissioner Hung. Mr. Bardwell will say,
21 "Oh, these are personal, they're intimate in nature."
22 But I have compared this morning, in the brief time that
23 I have been able to review the 300 pages, it was clear
24 that there were many, many improper redactions done in
25 the initial production. And in particular, there's a

1 week time period where two decadent sessions occur where
2 these firings are at issue, and the redactions during
3 that time period, from July 28th to August 4th, made in
4 the initial production and now that I received this
5 morning, you compare the two, it was clear I should have
6 gotten them all along and --

7 THE COURT: But they're not redacted now, what
8 you got?

9 MS. SANSALONE: There are still redactions made
10 to them. He is claiming -- Mr. Bardwell is claiming in
11 the brief that he filed with you this morning -- again,
12 at 4:45 this morning, so I haven't had a great chance to
13 digest it -- is that those are intimate and that they're
14 personal and, therefore, they're not relevant. What
15 he's missing is the affair is the center of this case.
16 The affair was the reason for the termination, the
17 details over the affair, who knew about the affair and
18 when are all the allegations in his complaint. There's
19 nothing privileged. This is an extra-marital affair.
20 There is no spousal privilege between Michelle Hung and
21 Mr. Williamson, and they were clearly -- I hate to be
22 cynical, Your Honor, but based on the redactions and the
23 new documents I received this morning, I don't -- I
24 basically don't trust what redactions still remain in
25 these documents.

1 But, again, I got them this morning. There are
2 300 pages of them. At first glance, I can tell I should
3 have gotten these a long time ago. I mean, I had Mr.
4 Williamson set for deposition in October, but I haven't
5 been able to get basic paper discovery from
6 Mr. Bardwell.

7 As a result, I do think the Ulmer & Berne
8 defendants are entitled to sanctions for having to wait
9 this long and to file a motion to compel yet to just
10 receive these on the -- you know, looking for a reprieve
11 from the governor on the morning we're headed to court
12 on my motion.

13 THE COURT: Okay. I'll hear from the plaintiffs
14 now about this end of it.

15 MS. SANSALONE: Okay.

16 THE COURT: I didn't cut you off, did I? I
17 mean, do you have another motion?

18 MS. SANSALONE: I do have another motion, but I
19 also want to address a couple things going forward. Now
20 that I've seen these text messages, it is clear to me
21 that Mr. Williamson has waived his privilege with
22 Mr. Bardwell and potentially with some other lawyers
23 that Mr. Bardwell has refused to identify for me,
24 because he's talking to Michelle Hung about his lawyer's
25 advice.

1 So I need to go through these, but there may be
2 another potential waiver issue here of privilege because
3 he's talking to his paramour, where there is no
4 privilege, about the advice he's getting from his
5 lawyers. So that will come.

6 THE COURT: Okay. And then in response to the
7 motion to compel by Ulmer?

8 MR. BARDWELL: Yes, Your Honor. So Monica is
9 correct. Our position is that the messages that were
10 redacted were personal in nature and were not relevant
11 to any of the claims in the case. We -- I went through
12 -- given the nature of the relationship between my
13 client and Commissioner Hung, the text message history
14 is quite lengthy. There are -- you know, they are
15 texting each other constantly on a daily basis it seems.
16 So it has taken a while to get through that entire
17 production. It has certainly taken longer than I would
18 like and, obviously, longer than the Ulmer defendants or
19 anybody else would have liked, and I concede that point.
20 But we've been going through and making, you know,
21 deliberate redactions for materials that were not
22 responsive to any of the Ulmer defendants' requests.
23 That's what all those redactions were.

24 The messages that you'll see -- so we sent a
25 link to the new productions today as well so the court

1 can review them, if it wants. But the vast majority of
2 the messages that were redacted, the Court will see are,
3 "Hey, honey, good morning. I'm thinking of you. Go
4 have a great day today. I really believe in you. How
5 was your day? Just getting back from work. Want to
6 meet up. Let's go to Mateo's. Let's go to get lunch
7 here at the Mexican place." That's the vast majority of
8 the messages. If there are specific --

9 THE COURT: And those portions were redacted by
10 you?

11 MR. BARDWELL: Correct.

12 THE COURT: Are they prejudicial?

13 MR. BARDWELL: They're not prejudicial. Yeah,
14 they were just not responsive to the requests, and I was
15 dealing with, you know, hundreds and hundreds of pages.
16 So I knocked out the pages that had nothing that was
17 responsive to the Ulmer defendants' requests.

18 Monica objected to that approach. I told her
19 that was the approach we were going to be taking several
20 months ago. When she objected to that, I agreed to go
21 back and review these. We had a final meet and confer
22 two hours before she filed her motion to compel, and I
23 offered to talk to the client about submitting to a full
24 in-camera review or going back and reviewing the -- or
25 taking other -- pass through the redactions and see what

1 we could remove. She insisted that we move straight
2 ahead on the motion to compel.

3 Despite that, I continued working with my client
4 to review these things to see whether we were
5 comfortable with sending all this stuff out there.

6 That's where we landed. We produced all of the
7 documents in the entire range that Monica was asking for
8 and we have unredacted virtually everything. I have
9 brought copies for you of all the pages that has
10 remained redacted in the production we made. If the
11 Court wants to take an in-camera review, we are
12 comfortable with that. I think the Court will find that
13 there's nothing in there that is salient for the case
14 and is generally just, yes, salacious material.

15 THE COURT: Okay. Next?

16 MS. SANSALONE: May I respond, Your Honor, to
17 that?

18 THE COURT: If you want to, go ahead.

19 MS. SANSALONE: Okay. Just briefly. The point
20 is I had to file the motion to compel to get what I've
21 been asking for since August. So dumping documents
22 three or four hours before a hearing and saying, "Hey,
23 I've given her everything" is very disingenuous. There
24 was no legitimate reason for the redactions in the first
25 place. There is no privilege and there is no reason.

1 And, again, Your Honor, I don't care how salacious they
2 are. His -- Mr. Williamson's affair is the reason we
3 are here, and whether that's embarrassing to him or
4 Commissioner Hung, I'm sorry, but they're the ones who
5 chose to engage in an extra-marital affair in the
6 workplace and, therefore, they're the ones who put this
7 at issue.

8 THE COURT: Okay. I'll take your next motion at
9 this time, if you have more.

10 MS. SANSALONE: I do, Your Honor. The next
11 motion we have filed is a motion for summary judgment.

12 THE COURT: I don't want to hear about that
13 today, no.

14 MS. SANSALONE: Okay.

15 THE COURT: That hasn't even been responded to,
16 has it?

17 MR. BARDWELL: It hasn't.

18 MS. SANSALONE: It has not.

19 THE COURT: We'll wait on that. I don't know if
20 I'll give you oral hearings on those, but I'll take a
21 look at them and if I decide that's the est way to do
22 it, the fairest way, then we'll set it again.

23 MS. SANSALONE: Great.

24 THE COURT: That's just been filed recently,
25 right?

1 MS. SANSALONE: Right. When it is fully
2 briefed, I would request oral argument on it. Thank
3 you, Your Honor.

4 THE COURT: Okay. We'll see.. Is that it, then?

5 MS. SANSALONE: It is.

6 THE COURT: Okay. And then how about the
7 County?

8 MR. LEE: Your Honor, the County does not have
9 any motions pending at this time, although I do foresee
10 motions coming forth based on what I've heard today.
11 But nothing at this time.

12 THE COURT: Okay. On the motion to compel
13 production, the plaintiff -- this is directed to the
14 County. The plaintiff has requested phone call logs of
15 landlines. Would you tell me, again, if you've
16 responded to it and so on and so forth?

17 MR. LEE: I have responded saying that we cannot
18 access those. The Everstream ones, which were produced
19 today, is the closest thing we have to any sort of
20 landline phone records.

21 THE COURT: You didn't have any?

22 MR. LEE: We could not access the landline phone
23 records that he was alleging we could. So, no, there
24 aren't any. So I've responded saying they're not in our
25 possession, so we cannot access --

1 THE COURT: They don't exist or you can't access
2 it?

3 MR. LEE: We can't access a breakdown of what
4 these landlines show.

5 THE COURT: How soon can you produce the Cortes
6 verification? I know you said that he was out ill
7 maybe?

8 MR. LEE: Yeah. I've been trying for the last
9 -- I mean, since the beginning of December and I have
10 not been able to obtain it. I will keep trying. I've
11 been trying even as of last night and I don't have a
12 response from him. I will keep trying.

13 THE COURT: You can't send it to him and ask him
14 to return it to you?

15 MR. LEE: Oh, I have. I've done that several
16 times and I'm not getting a response even with phone
17 calls.

18 THE COURT: Is he still an employee?

19 MR. LEE: No, he's not.

20 THE COURT: Oh.

21 MR. LEE: He's retired, and I know his health is
22 not wonderful, so I can only presume that that is the
23 reason I'm not getting a return contact. So I would
24 love to give you a date certain. I will keep trying my
25 best, but I can't promise anything given the status.

1 THE COURT: All right. I think that's going to
2 do it. That's all the rest of questions that I've got.
3 I'll try to get answers for you right away. You've got
4 a trial date -- we have a trial date set on this, last
5 time we were here, of August 14th, okay? And be assured
6 that those dates for the final pretrial and the trial
7 dates are going to stay. I mean, this is the kind of
8 case that in order to continue it and to lengthen the
9 time on it, it's not going to be productive for anybody.

10 So that motion for summary judgment by the Ulmer
11 defendants has been filed like real recently, has it
12 not?

13 MS. SANSALONE: It has, Your Honor.

14 THE COURT: So you need time to respond to that?

15 MR. BARDWELL: We do.

16 THE COURT: Additional time?

17 MR. BARDWELL: That would be great.

18 THE COURT: March 15th, okay?

19 MR. BARDWELL: That'll work. Thank you.

20 THE COURT: And then I'm assuming the Ulmer
21 defendants are going to want to file a reply brief?

22 MS. SANSALONE: Yes, Your Honor.

23 THE COURT: End of March, the 30th, is that
24 okay?

25 MS. SANSALONE: That's fine, Your Honor. Thank

1 you.

2 THE COURT: Thanks, everybody. That will do it
3 for today.

4 MR. BARDWELL: Thank you, Your Honor.

5 MS. SANSALONE: Appreciate it, Your Honor.

6 MR. LEE: Thank you, Your Honor.

7 MR. BARDWELL: Does the Court want the redacted
8 messages for an in-camera inspection?

9 THE COURT: I'm not hearing you. What did you
10 say?

11 MR. BARDWELL: I still have the messages that
12 the Ulmer defendants are asking to see unredacted. I
13 have unredacted versions of them for the Court if it
14 wants them for an in-camera inspection. I think they
15 would be useful in determining whether any further
16 action is warranted on --

17 THE COURT: I'm going to order you to produce
18 all of it, okay, unless it's privileged or there's some
19 other good reason to redact it. What you have stated to
20 the Court is not a good reason legally, because they're
21 sensitive or personal or -- I know of no valid objection
22 to production because of that. So that's what you're
23 going to be looking at.

24 MR. BARDWELL: Okay.

25 THE COURT: And then you can let me know after

1 you get my decision on it.

2 MR. BARDWELL: All right. Thank you.

3 THE COURT: Okay. Thanks, everybody.

4 MS. SANSALONE: Thank you, Your Honor.

5 * * *

6 (Proceedings concluded.)

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1 C E R T I F I C A T E

2 State of Ohio,)
3 County of Lorain.) SS:

4 I, Angela M. Wachsman, Official Court Reporter in
5 the Court of Common Pleas, Lorain County, Ohio, duly
6 appointed therein, do hereby certify that this is a
7 correct transcript of the proceedings transcribed to the
8 best of my ability in this case.

9 I further certify that this is a complete
10 transcript of the testimony.

11 IN WITNESS WHEREOF, I have subscribed my name this
12 17th day of February, 2023.

13

14

15

16 Angela M. Wachsman

17 _____
18 Angela M. Wachsman, RPR
19 Official Court Reporter
20 Lorain County Court of Common Pleas
21 225 Court Street, 7th Floor
22 Elyria, Ohio 44035
23 (440) 329-5564

24

25 My commission expires June 17, 2025